

**F A X C O V E R**

\*\*\*\*\*OFFICIAL FAX\*\*\*\*\*

**Date:** September 20, 2007 **Number of pages (Including cover):** 8**To:** Examiner Ly, U.S. Patent and Trademark Office**Fax No.:** (571) 273-4039**Serial No.:** 10/624,304**Title:** **DATA PROCESSING APPARATUS, DATA PROCESSING METHOD,  
DATA PROCESSING SYSTEM, STORAGE MEDIUM AND PROGRAM****From:** Randy J. Pritzker**Direct dial:** 617.646.8247**Our File #:** S1459.70053US00**ORIGINAL DOCUMENTS WILL NOT BE MAILED.****MESSAGE:** Transmitted herewith is an Interview Agenda.

This transmission contains confidential information intended for use only by the above-named recipient. Reading, discussing, distributing, or copying this message by anyone other than the named recipient, or his or her employees or agents, is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone (collect), and return the original message to us at the address below via the U.S. Postal Service.

**IF YOU DID NOT RECEIVE ALL OF THE PAGES OF THIS TRANSMISSION, OR IF ANY OF THE PAGES ARE ILLEGIBLE, PLEASE CALL 617.646.8000 IMMEDIATELY.**

**Wolf Greenfield Fax Number: 617.646.8646**

Wolf, Greenfield & Sacks, P.C. | 600 Atlantic Avenue | Boston, Massachusetts 02210-2206  
617.646.8000 | fax 617.646.8646 | [www.wolfgreenfield.com](http://www.wolfgreenfield.com)

**PATENTS   TRADEMARKS   COPYRIGHTS   TECHNOLOGY TRANSFERS   LITIGATION**

#1254727

Docket No.: S1459.70053US00  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Masafumi Matsuda et al.  
Serial No.: 10/624,304  
Confirmation No.: 7805  
Filed: July 22, 2003  
For: DATA PROCESSING APPARATUS, DATA PROCESSING  
METHOD, DATA PROCESSING SYSTEM, STORAGE MEDIUM  
AND PROGRAM  
Examiner: Anh Ly  
Art Unit: 2162

Certificate of Transmission Under 37 CFR 1.8  
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the Patent and  
Trademark Office, facsimile no. (571) 273-4039, on the date shown below.

Dated:

9-20-07

  
Delina Andriolo

INTERVIEW AGENDA

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to Examiner Ly's request, a proposed agenda for a telephone interview follows.  
Examiner Ly has requested a proposed agenda before agreeing to grant the telephone interview.

Applicant's representatives request the interview to discuss objections to the specification  
and drawings, and claim rejections under 35 U.S.C. §103, as discussed further below.

I. Objections to the Specification and Drawings

The Office Action objects to the specification for purportedly failing to provide proper  
antecedent basis for the claimed subject matter. Specifically, the Office Action contends that the

Serial No.: 10/624,304  
Page 2

claim terms "computer-readable medium", "first reproducing unit" and "second reproducing unit" lack support in the specification "or even in the drawings."

In Applicant's previous response, filed February 23, 2007, the support for these claim terms provided by the specification and drawings was discussed at length. The Office Action, although it includes a "Response To Arguments" section, fails to address any of the points made in Applicant's response, and simply repeats the same objections. Accordingly, Applicant's representatives would like to discuss why it is believed that the specification and drawings fail to provide proper antecedent basis for the claimed subject matter.

The Office Action also a number of objections to the drawings. The response of February 23, 2007 also addressed these objections. The Office Action fails to acknowledge any of the points made in Applicant's response, and simply repeats the same objections. Accordingly, Applicant's representatives would like to discuss the basis for the objections to the drawings as well.

## II. Claim Rejections Under 35 U.S.C. §103

Applicant's representatives would also like to discuss the rejection of claims 1-6, 8-10 and 18-39 under 35 U.S.C. §103(a) as purportedly being unpatentable over U.S. Patent Publication No. 2002/0035692 to Moriai ("Moriai") in view of U.S. Patent Publication No. 2003/0191753 to Hoch ("Hoch"). Specifically, Applicant's representatives would like to discuss the propriety of this rejection, as (1) the cited passages of Hoch are not prior art to the present application, (2) the asserted references fail to satisfy all of the limitations of the independent claims, and (3) one skilled in the art would not have been motivated by Hoch to modify the system of Moriai in the manner asserted.

### A. The Cited Passages Of Hoch Are Not Prior Art To The Present Application

Hoch was filed March 25, 2003, and claims priority to a provisional application filed April 8, 2002. The present application was filed on July 22, 2003, and claims priority to a Japanese application filed July 22, 2002. Thus, Hoch is prior art to the present application only to the extent

1251704.1

Serial No.: 10/624,304

Page 2

that its disclosure is supported by the provisional application.

The Office Action cites Fig. 3D and ¶¶[0063],[0023],[0026] and [0073] of Hoch as purportedly meeting the limitations recited by each independent claim directed to a recommendation content data item. The provisional application includes neither the cited passages nor the cited figure. Instead, the provisional application provides a very high-level, three-paragraph description of a proposed technique for improving search results in a "networked community space." Because the provisional application fails to provide support for the cited passages, these passages are not prior art to the present application. Accordingly, Applicant's representatives believe that the rejection of claims 1-6, 8-10 and 18-39 under §103 should be withdrawn.

**B. The Cited References Fail To Satisfy All Of The Claim Limitations**

The Office Action contends that Moriai satisfies all of the limitations recited by the independent claims except those which are directed to a recommendation content data item. The Office Action also contends that Hoch satisfies the limitations directed to a recommendation content data item. Neither of these contentions find support in the prior art of record, such that Applicant's representatives would like to discuss how the limitations of the independent claims are believed to be satisfied.

For example, the Office Action contends that Moriai satisfies (in C, ¶[0175] and ¶¶[0180]-[0181]) limitations directed to detecting a reproduction status of each of a plurality of content data items when each said content data item is reproduced by a reproducing unit, and selecting a content data item from said plurality of content data items depending on a reproduction status of said content data item. Moriai discloses a cellular phone having a clamshell design which is capable of downloading and reproducing content data distributed from a distribution server (Abstract). In particular, the phone is equipped with a controller which, if the phone is closed while it is downloading or reproducing content data, causes power to be supplied so that the download or reproduction process can be completed (Abstract). The cited passages of Moriai relate to these general capabilities (¶¶[0024]-[0027]), determining whether the cellular phone casing is in an open or closed position (¶[0175]), and if it is determined that the casing is closed, conferring a status

1251704.1

Serial No.: 10/624,304

Page 2

which allows it to continue to reproduce or download content data ([0180]–[0181]). The cited passages thus appear to be directed to detecting a download/reproduction status of a cellular phone, and not to a reproduction status *of each of a plurality of content data items, when each content data item is reproduced by a reproducing unit*, as required by the independent claims.

The Office Action also contends that Moriai satisfies (in [0097] and [0159]–[0161]) limitations directed to selecting a content data item from a plurality of content data items depending on its reproduction status. However, these passages relate only to the ability of the phone to download content from a distribution server and reproduce it, and seem to have little relation to selecting a content data item from a plurality of content data items depending on its reproduction status.

In view of the foregoing, Applicant's representatives would like to discuss how the limitations of the independent claims are believed to be satisfied by the cited references.

C. One Skilled In The Art Would Not Have Been Motivated By Hoch To Modify The System Of Moriai

Applicant's representatives would like to discuss why it is believed one skilled in the art would have been motivated by the teachings of Hoch to modify the system of Moriai. For example, the teachings of Moriai and Hoch are entirely unrelated. For example, as discussed above, Moriai depicts a technique which allows a cellular phone having a clamshell design to download content if the phone is closed, while Hoch is directed to performing searches in a networked community space. Thus, it is entirely unclear what aspect(s) of Hoch the Examiner believes would have motivated one skilled in the art to modify the system of Moriai.

In addition, Applicant's representatives would like to discuss what type of system the Examiner believes would result from the asserted combination. In this respect, it is unclear what role the searching technique of Hoch would play in the system of Moriai, especially since Moriai says nothing about the cellular phone being able to perform any type of search.

In view of the foregoing, Applicant's representatives would like to discuss why it is believed that one skilled in the art would have been motivated by Hoch to modify the system of Moriai.

1261704.1

Serial No.: 10/624,304  
Page 2

### CONCLUSION

Applicant's representatives thank Examiner Ly in advance for the courtesies extended in reviewing this proposed agenda. If the Examiner has any questions concerning the foregoing, he is invited to contact the undersigned at the number listed below.

Dated: September 20, 2007

Respectfully submitted,

By Randy J. Pritzker

Randy J. Pritzker

Registration No.: 35,986

WOLF, GREENFIELD & SACKS, P.C.

Federal Reserve Plaza

600 Atlantic Avenue

Boston, Massachusetts 02210-2206

1261704.1

PTOL-413A (07-07)  
 Approved for use through 09/30/2007. OMB 0981-0031  
 U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

### Applicant Initiated Interview Request Form

Application No.: 10/624,304 First Named Applicant: Massafumi Matsuda  
 Examiner: Anh Ly Art Unit: 2162 Status of Application: Pending

**Tentative Participants:**

(1) Randy J. Pritzker (2) David S. Gesner  
 (3) Examiner Ly (4) \_\_\_\_\_

Proposed Date of Interview: TBD Proposed Time: TBD (AM/PM)

**Type of Interview Requested:**

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO  
 If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

**Brief Description of Arguments to be Presented:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

An interview was conducted on the above-identified application on \_\_\_\_\_.  
**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Randy J. Pritzker  
 Applicant/Applicant's Representative Signature

\_\_\_\_\_  
 Examiner/SPE Signature

Randy J. Pritzker  
 Typed/Printed Name of Applicant or Representative

35,986

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.